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5 **NOT FOR PUBLICATION**

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 Jose J. Rodriguez,) No. 04-CV-2808-PHX-FJM
10 Petitioner,)
11 vs.) **ORDER**
12 Deputy Warden Tucker, et al.,)
13 Respondents.)
14 _____)
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16 In our order dated April 21, 2006, we granted petitioner's motion to strike respondents'
17 untimely objections and dismissed the petition for a writ of habeas corpus without prejudice
18 (doc. 31). We have before us respondents' motion for reconsideration of that order (doc. 33).

19 Respondents creatively and incorrectly interpret the Magistrate Judge's Report and
20 Recommendation (doc. 26). Pursuant to the Report and Recommendation, either party must
21 submit their objection to the Report and Recommendation within 10 days of service thereof.
22 If a party files an objection, the adverse party has 10 days from the service of the objection
23 to file a response thereto. Contrary to respondents' contention, they do not have 10 days from
24 the due date for petitioner's objection in which to file their own objection.

25 Respondents substantially exceeded their 10 day period in which to file an objection.
26 Moreover, even if respondents' interpretation of the timing rules were correct, they should
27 have set forth their contention in a response to petitioner's motion to strike, but they did not
28 file a response.

Respondents failed to set forth any argument that would cause us to reconsider our order. Therefore, **IT IS ORDERED DENYING** the motion for reconsideration (doc. 33).

DATED this 5th day of May, 2006.

Frederick J. Martone

**Frederick J. Martone
United States District Judge**